

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY)	
NETWORK LIMITED LIABILITY COMPANY FOR)	
THE ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT)	2003-00162
A TOWER IN LETCHER COUNTY, KENTUCKY)	

O R D E R

On July 22, 2003, East Kentucky Network, LLC, formerly Mountaineer Cellular Limited Liability Company ("Applicant"), filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 325 feet in height, with attached antenna, to be located at 841 Appalachian Drive, Whitesburg, Letcher County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 7' 15.5" by West Longitude 82° 48' 46".

The Applicant has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Licensed Professional Engineer has certified the plans.

Pursuant to 807 KAR 5:063, the Applicant has notified the County Judge/Executive of the proposed construction. The Applicant has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission

("KAZC") seeking approval for the construction and operation of the proposed facility. Both decisions are pending.

The Applicant has filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited any comments and informed the recipients of their right to request intervention. On July 5, 2003, the Commission received a letter from Mr. Jack Standifer requesting further information regarding the proposed construction. However, Mr. Standifer sent a letter dated October 8, 2003, stating that the Applicant had addressed his concerns. The Commission received a letter requesting intervention from Edmond and Lois Shortt dated July 18, 2003. Mr. and Mrs. Shortt were granted intervention by Commission Order on November 3, 2003, and the Shortts later requested that a public hearing be scheduled. However, the Commission received a letter from Mr. and Mrs. Shortt dated December 15, 2003, asking to withdraw their intervention and any petition or proceedings for a hearing. The Commission will treat the request as a motion. Mr. and Mrs. Shortt state in their letter that all issues with the Applicant concerning the proposed construction have been resolved.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated that a facility is necessary to provide adequate utility service and therefore a Certificate of Public Convenience and Necessity to construct the proposed facility should be granted.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, the

Applicant should notify the Commission if it does not use this antenna tower to provide service in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by the Applicant.

IT IS THEREFORE ORDERED that:

1. The motion of Edmond and Lois Shortt to withdraw as parties to this proceeding is granted.

2. The Applicant is granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 325 feet in height, with attached antenna, and is to be located at 841 Appalachian Drive, Whitesburg, Letcher County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 7' 15.5" by West Longitude 82° 48' 46".

3. The Applicant shall file a copy of the final decisions regarding the pending FAA and KAZC applications for the proposed construction within 10 days of receiving the decisions.

4. The Applicant shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 24th day of December, 2003.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas W. (D)", with a stylized flourish at the end. The signature is written over a horizontal line.

Executive Director